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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

SEP 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 93-228
	)	
Amendment of Section 73.202(b),	)	RM-8295
Table of Allotments,	)	
FM Broadcast Stations.	)	
(Tawas City, Michigan)	)	

TO: Chief, Allocations Branch

### COMMENTS OF PATRICIA MASON

Patricia Mason ("Mason"), through her counsel, submits these, her Comments, in the captioned proceeding.

In its original Petition for Rule Making filed July 9, 1993, Ives Broadcasting, Inc. ("Ives" or "Petitioner"), licensee of WDBI-FM, Tawas City, Michigan, seeks to ultimately change channels, with the proposed substitution of Channel 291A for its present Channel 297A. The sole excuse for the proposed change is that Ives would like to increase its power from 3 kw to 6 kw.

Petitioner claims that it is precluded from the sought-after power increase by a short spacing of 4.28 km to a co-channel Canadian allotment at Sault Ste. Marie, Ontario. Ives' engineering statement, attached to its Petition, demonstrates the 4.28 km short spacing, based upon Ives present site of 44° 16' 27" North Latitude and 83° 39' 42" West Longitude. The other spacings listed in Ives' Figure 1 demonstrate further that adequate spacing exists to all other stations considered for a move of site by WDBI to 4.29 km or

more away from the Canadian allotment, thus satisfying all required spacings listed by its engineer. Indeed, Ives has shown no reason why it cannot move its present site, now 6.8 miles west of Tawas City, an additional 4.29 km and still cover Tawas City, as well as being able to increase power to 6 kw.

The only justification for the proposed channel change is Ives' statement "the Commission has routinely allowed for adjacent and non-adjacent channel modifications of the same class in order to cure short spacing created by the increased spacings adopted in MM Docket 88-375." Petitioner's citations do not support the conclusion that it would have the Commission adopt. In Edmond, Oklahoma, 7 FCC Rcd. 7533 (1992), an adjacent channel was substituted ". . .since it could enable station KINT-FM to operate with maximum Class A facilities of 6 kw". The Commission makes no mention of increased spacings resulting from Docket No. 88-375. South Hill and Lawrenceville, Virginia, 7 FCC Rcd. 7843 (1992) was an exchange of channels between agreeing stations that ". . .could provide both communities with an improved FM service". There is no mention of MM Docket 88-375. Seminole, Oklahoma, 7 FCC Rcd. 6811 (1992) substituted Channel 290A for second adjacent channel 288A at Seminole, Oklahoma. No mention is made of MM Docket 88-375, but because of the channel adjacencies, the Commission declined to accept competing expressions of interest. Walton and Rochester, Indiana, 7 FCC Rcd. 5486 (1992), a Notice of Proposed Rule Making, contemplated alternatives: allotment of Channel 229A to Walton, Indiana; or exchange of Channel 229A for 221A at Rochester,

Indiana, which would permit WDOW-FM at Dowagiac to increase to 6 kw. No mention was made of Docket 88-375 and by final rule, the Commission denied the Rochester channel change and instead, allotted Channel 229A to Walton, Indiana, 58 F.R. 11197 (February 24, 1993). The last case cited by Ives, Key Colony Beach, Key Largo and Marathon, Florida, DA93-532, an NPRM, released June 3, 1993, bears little relationship to Petitioner's present proposal in that the Commission in Key Colony has proposed channel changes ". . .since the new separations would cure the alleged [receiver-induced third order intermodulation interference] problem." To date, there has been no final order confirming or denying the changes proposed in the Key Colony NPRM.

In its Petition, Ives has not sought modification of its license to specify the new channel (obviously since 291A is not the channel presently in use by Ives, nor within 3 adjacencies of it); likewise the Commission's Notice of Proposed Rule Making has not suggested license modification of the WDBI-FM license. Accordingly, if the Commission should determine that a 4.29 km site change by Ives would not provide the relief it now seeks, and, as Ives requests, elects to delete Ives' present channel and instead, allot Channel 291A to Tawas City, it would (and indeed under Commission rules must) permit the filing of new applications for the new channel.<sup>1</sup>

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<sup>1</sup> It is no little surprising that Ives would take a chance on losing its present station to a better qualified applicant, rather than move 4.29 km. Perhaps Ives is in reality using a backdoor approach to secure a Class C3 facility rather than the 6 kw Class A it would have the Commission believe that it seeks.

Should the Commission allot Channel 291A to Tawas City, Mason will apply for it, and upon grant of her application, will build and operate a station on Channel 291A at Tawas City, Michigan.

Respectfully submitted,

**PATRICIA MASON**

By Jul P. Freret  
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September 27, 1993

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager in the law firm of Booth, Freret & Imlay, do hereby certify that copies of the foregoing COMMENTS OF PATRICIA MASON were mailed via U. S. Mail, first class, postage prepaid, this 27th day of September, 1993, to the offices of:

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Margaret A. Ford